Supreme Court, U.S.
FILED

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No. 01-

IN THE

Supreme Court of the United States

CAROLYN E. O'CONNOR,

Petitioner,

v.

NORTHSHORE INTERNATIONAL INSURANCE SERVICES, INC., *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

CAROLYN E. O'CONNOR
Petitioner, Pro Se
24 Norman Street, Unit 210
Salem, Massachusetts 01970
(978) 745-1237

25PP

QUESTIONS PRESENTED

1. The Court agrees with what is due a civil pro se litigant within our court system?

2. The Court agrees with creating a new prima facie criteria, or using the "standard" prima facie criteria as presented in this writ, as the proof required to establish a case for religious discrimination?

3. The Court agrees with extending the statute of limitations for discrimination claims, not to follow EEOC guidelines, but to follow the personal injury statutes of the host State?

4. The petitioner can proceed with her case with all her claims intact?

PARTIES TO THE PROCEEDING

In addition to the parties named in the caption, only a series of "john does" have been named as defendants in this action.

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Petitioner, Pro Se, Carolyn E. O'Connor, respectfully requests that a writ of certiorari be issued to review the judgment of the United States Court of Appeals for the State of Massachusetts in this case.

STATEMENT OF JURISDICTION

The Judgment of the United States Court of Appeals for the First Circuit was entered on December 5, 2001.

STATUTES INVOLVED

28 U.S.C. § 1654

CONSTITUTIONAL PROVISIONS INVOLVED

First Amendment

Seventh Amendment

INTRODUCTION AND STATEMENT OF THE CASE

Introduction

In addition to addressing issues involving the instant case, *Carolyn E. O'Connor v. Northshore International Insurance Services, Inc., et al.*, petitioner advises that this case is compounded by issues involving denial of due process by the lower courts, which prejudiced the petitioner's case.

In the instant case of *Carolyn E. O'Connor v. Northshore International Insurance Services, Inc., et al.*, petitioner primarily alleges violation of First Amendment Rights. Plaintiff has, in the lower Courts, attempted to discuss this,

first through the concept of "religious discrimination" as another cause of injury to the petitioner, from which in whole or in part, injury/loss still continues to be sustained. Petitioner points out that to be discriminated against is to be personally injured and, therefore, issue's as to timeliness of petitioner's claims is not a contested issue.

Procedural due process requires that no one be denied a liberty or property interest without both notice and the opportunity to be heard. As of this writing, plaintiff has yet to be granted the opportunity to be head with regard to her grievances. A court cannot simply throw up its hands and claim that no remedy is available to a pro se litigant when his/her rights have been violated. It is the duty of the courts to afford the greatest protection to the plaintiffs right to self-representation and the lower courts have breached this duty (note Statute).

Because our Courts/judicial process lacked knowledge regarding religious distinctions, legal decisions were summarily and wrongfully made in striking down petitioner's allegations of slander, etc. This is a violation of First Amendment rights. In fact, the willful ignorance of our Courts/judicial process perpetuated religious intolerance and persecution.

Petitioner draws this Courts attention to the fact that the petitioner is not an attorney and has again filed as a pro se litigant.

STATEMENT OF CASE

Petitioner's supervisor from the defendant company intentionally slandered plaintiffs religious beliefs by stating to co-workers that petitioner hated homosexuals. As a result, the gay "community" within this small company formed a coalition to have petitioner dismissed and were successful. They represented to co-workers within defendant company that petitioner's (alleged) religious beliefs were against the company policy on "tolerance". They were guaranteed to be successful in having the petitioner dismissed because two or three of these gays brought business into the company and, therefore, had sway over management decisions. As profit is the lifeblood for any company, the company entertained these prejudices and became a party to them so as to preserve company profits. Indeed, to complain about the hostile behavior levied against the petitioner in this small company could be likened to going to the Nazi's to get justice for the Jews.

Defendant masked dismissal of the petitioner under the pretext of "complaints". To examine, in detail, the defendants alleged cause of dismissal is to show evidence sufficient to render a more than reasonable conclusion in favor of the allegations the petitioner asserts.

Being ousted from employment by an influential and hostile gay group within the workplace surpasses mere religious discrimination and becomes religious persecution. The lower Courts ignored the fact that a Constitutional right is being violated here and is, by principle, allowing religious discrimination and persecution of religious beliefs in the workplace by another "employee group".

Since dismissal from defendant company, petitioner found she could no longer solicit employment in the field she was formally engaged in. As a result of continued malicious and/or discriminatory actions by defendant, plaintiff must now seek employment in much lower paying jobs in other fields, has sustained loss of reputation, great financial loss and anticipates continued retaliatory actions from this former employer. Cumulative trauma/continuous injury is claimed by petitioner. Petitioner filed all claims on a timely basis with the Massachusetts State Statute for personal injury, which is three (3) years.

REASONS FOR GRANTING THE WRIT

Petitioners claims are legal, relevant and timely filed within the law. Petitioner makes a case accordingly:

1. How should the court treat civil cases involving pro se litigants? The problems a pro se litigant has with this Court system, is not merely seeking equity for a wrong and is saddled with the unfamiliar task of managing a lawsuit against a hostile defendant. The pro se plaintiff also must contend with the procedural system, which is hostile to pro se litigation. The Petitioner understands that the objective of the procedural system is to minimize both the cost of erroneous judicial decisions and the cost of operating the procedural system (note references in this matter). In other words, there is a tendency for the Court to consider only what is a meritorious case, on its face value, in order to preserve the labor value of its personnel within the court system. However, economy-based systems lean toward violating people's rights, not upholding them.

How should courts treat civil pro se litigants? That pro se pleadings must be liberally construed, that procedural issues involved must be evaluated in view of what interests are at stake, the pro se litigant must be fairly apprised of what is required under the law and the consequences of non-compliance, that the pro se litigant have the opportunity to offer proof and that the pro se's opportunity to be heard must be preserved and protected.

Therefore, no person is to be punished because he or she does not know how to establish his or her innocence in court, nor should a case be evaluated only on the weight of written pleadings.

Legal scholars attempt to squeeze the concept of pro se rights into Fifth Amendment rights, however, this is not correct. Pro se rights are protected by the First and Seventh Amendments.

Petitioner points out that the pro se's opportunity to be heard is not trebled on whether the pro se's case is considered having a cause of action by the court but on the plaintiff alleging a wrong. Grievances can mean many types of issues and these issues may not neatly follow current legal theory. However, the law evolves with society's custom and practice or address current social issues.

A pro se litigant should not be led into the belief that the courts will do what is right, particularly when it is well know that courts will arbitrarily dismiss meritorious complaints because judges do not read them with the tolerance due pro se pleadings. The right to trial due us under the Seventh Amendment overrules a judges intolerant behavior. If a judge cannot understand or deal with an issue, then a jury will.

The founding fathers of this country were cognizant of the behavior of tyranny and therefore, not only constructed three branches of government so as to create a system of checks and balances, but also, even within the Court system, does not depend merely upon the decision of the judge.

Do judges prefer the professional curtsey, control and convenience of dealing only the legal "trade" in the course of their business? Yes, but to create the position that the only cases the court will hear stem only from those represented by legal counsel is to also bow down to honor the economics of the legal profession as its own profit-centered business, which generates a wrong doing. Having the absolute and protected right to be heard also acts, in part, as a protective measure against court abuses.

Petitioner also points out that the rights contained in our Constitution are based in older documents that address citizen rights, such as the Magna Carta, which grants rights for self representation. After all, historically, it was custom and practice in the culture at that time to represent oneself in matters of public importance as well as in court (note references). Was representation an important issue for the founders of this country? Absolutely, as taxation without representation is tyranny. Our First Amendment right grants the freedom of speech and the right to petition the Government (of which the Judicial branch is a part) for the redress of grievances. The wording of the First Amendment is well thought out: the freedom of speech is addressed before the petition of grievances. People want a voice in larger issues, which affect them on collective basis and it is on these issues that they vote or attend town meetings, etc. Petition of Grievances point to an individual concern or a smaller arena of representation, such as issues brought to court. And

so pro se rights become a constitutional issue. Petitioner has already brought her grievances to two (2) courts and continues to seek being heard on them.

It is the function of an oppressive and tyrannical government to suppress the "voice" of its people and deny them participation in matters that affect them. It is no less now than it was then.

Petitioner's rights have been grossly neglected by the lower courts and continues to seek due process in her case.

2. Argument Against the Use of Defendants Use of a Prima Facie Case. The defendants insist on the following prima facie criteria to establish a case for religious discrimination because it protects their injustice. This criteria is: "(1.) he or she has a bona fide religious belief that conflicts with an employment requirement, (2.) he or she informed the employer of the belief and (3.) he or she was disciplined for failure to comply with the conflicting employment requirement."

The petitioner points out the aforementioned criteria for proof of religious discrimination is abusive and works an injustice. Discrimination is a subtle activity and said criteria is, in and of itself, too limited and unrealistic for the varied circumstances that occur in the workplace. Petitioner requests this limited prima facie criteria for the establishment of a case involving religious discrimination be struck from our "discrimination laws". Petition is discriminated against, but not according to the extremely limited criteria as mentioned above. This criteria does not address discrimination by other "employee groups" or other management and non-management individuals in the workplace that influence employment matters.

3. Petitioner argues for the "standard" prima facie criteria to establish a case as it works no wrong in this matter. Petitioner can prove she has a case under the "standard" concept of a prima facie case which is (1) in the sense of the plaintiff producing evidence sufficient to render reasonable a conclusion in favor of allegation he/she asserts; (2) not only that plaintiffs evidence would reasonably allow the conclusion plaintiff seeks, but also the plaintiff's evidence compels such a conclusion if the defendant produces no credible evidence to rebut it. Evidence exists which highlights the punitive and gross unreasonableness of the defendants dismissal of the petitioner. This evidence is sufficient to render a more than reasonable conclusion in favor the allegations that the petitioner asserts.

4. This case is also an abuse of First Amendment rights. The petitioner was not subject to mere discipline for failure to comply with a conflicting employment requirement, but, rather, terminated from employment. This is intolerance and persecution of (alleged) religious beliefs. Continued harassment of the petitioner, particularly after legal proceedings were instituted against this former employer, can also stem from many inclinations, including personal loyalty to those who are hostile to the Word of God. This is an abuse of First Amendment rights.

5. Injury claims are valid and the injury concept is accepted by law. Petition claims cumulative trauma/ continuous injury as a result of the defendant's actions. This injury concept is not usual, even early Roman laws recognized the concept of continuous injury (note references). After dismissal from and employment, petitioner found that she could not longer solicit employment in the field in which she was formally employed and had to take much lower

paying jobs in other fields. This negative ongoing economic impact, with its side effects, also forced petitioner to close out a retirement fund, expend savings, etc. and continues to suffer loss of reputation and financial loss. Petitioner also claims other harassment from said employer, which was generated long after the termination date of this employment. Petitioner does not rule out that this continued harassment also stems from other types of discrimination, such as age and sex.

6. Discrimination is also personal and civil injury. According to Blacks Law Dictionary, personal injury is defined "in a much wider sense, and as including any injury, which is an invasion of personal rights, and in this signification it may include such injuries to the person such as libel or slander . . . malicious prosecution." *Gray v. Wallace*, 319 S.W.2d 582. Civil injury includes "an infringement or privation of the civil rights which belong to individuals considered as individuals".

Is to be discriminated against also to be personally and civilly injured? Yes. Therefore, petitioner argues that grievances involving discrimination and constitutional matters follow the statute of limitations of the "host" State. In this case, it is Massachusetts, and the personal injury statute is three (3) years.

7. The current Statute of Limitations for Discrimination claims are unconstitutional. Discrimination is taking of a person's rights, privileges or a liberty. Because of the seriousness of this transgression, a 180 day or even a 300 day statute of limitations within which to report the discriminatory act or else our rights are lost is unreasonable. These timeframes only cater to the administrative ease of adjudicating claims not protection of rights. These minuscule time frames are against public policy, is a taking of our rights and a Constitutional wrong.

According to our laws (note references), serious transgressions, particularly those that are constitutional in nature, do not warrant short timeframes within which to preserve rights.

CONCLUSION

This writ presents matters, which affect our citizenry, and non-citizens, with regard to the protection of rights. Reconsideration of our laws concerning the statute of limitations on discrimination matters only seeks to give people a chance to protect themselves.

To allow the monopolization of our legal system by the rich and the legal profession is to work an injustice against those who desire or must represent themselves in court. To represent oneself as a pro se litigant in this legal system is a struggle against relentless contemptuousness, indifference, ignorance, trivialization and intolerance. Indeed, court attitude brings to mind a bible verse from the Book of Isaiah, chapter 3, verse 15: "What do you mean by crushing My people and grinding the faces of the poor?" And so pro se litigation becomes a constitutional issue.

Our Constitutional rights are trebled on the right to (self) representation and within this freedom, our "voice" is to be heard. We have the right to petition the Government for a redress of grievances. And we have the right to a jury trial. The right to be heard is an absolute and protected freedom. Pro se litigants are to be accommodated within our legal system on this basis.

No statute of limitations should unreasonably deny anyone's rights, liberty, or property. Nor should anyone be denied the opportunity to prove one's case.

Yes, Christianity has, in actuality, always been a misunderstood religion. Its mysteries are based on faith. The significance of the cross looks like foolishness to everyone but to those who believe. It's a difficult thought, even among people who call themselves Christians, to consider God's unconditional love but that His presence among us is conditional. Christianity is also about the good news of God's rulership. In the teachings of Jesus Christ, He rejects politics and economics, as we know them. He was not intent on usurping human authority, as He instructed His followers to "Give unto Caesar what is Caesar's". Church religion, state religion and even personal religion are of little use to Him and He intentionally violates dead rules of outward piety, destroys self-righteous moralism and calls into question spiritual institutions that feed on people's fears and preys on their longings. Indeed, Jesus shuts down every temple, except that of a broken and contrite heart. Worship is done in spirit and in truth. With a cup of water for those who thirst in one hand, and food and clothing for those impoverished in the other.

Respectfully submitted,

CAROLYN E. O'CONNOR
Petitioner, Pro Se
24 Norman Street, Unit 210
Salem, Massachusetts 01970
(978) 745-1237

APPENDIX

APPENDIX A — OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT DATED OCTOBER 22, 2001

UNITED STATES COURT OF APPEALS
for the First Circuit

No. 01-1547

CAROLYN E. O'CONNOR,

Plaintiff, Appellant,

v.

NORTHSHORE INTERNATIONAL INSURANCE SERVICES, INC., ET AL.,

Defendants, Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

[Hon. George A. O'Toole, Jr., *U.S. District Judge*]

Before

Boudin, *Chief Judge*,
Torruella and Lipez, *Circuit Judges*.

Carolyn E. O'Connor on brief pro se.

Mary P. Harrington, *Kathleen M. O'Hagan*, and *Ronan, Segal & Harrington* on brief for appellees.

October 22, 2001

Appendix A

Per Curiam. After a thorough review of the record and of the parties' submissions, we affirm. To the extent appellant claims that those who decided to fire her were improperly motivated by her religion, her claim fails. She does not allege that anyone with firing authority knew she was a fundamentalist Christian; indeed, she admits her statement regarding her beliefs was stripped of any religious connotation before being repeated to others in the workplace. Moreover, animosity of one who lacks decision-making authority cannot support a Title VII claim, even if that animosity is religiously-motivated. *Conto v. Concord Hosp., Inc.*, 2001 WL 1081606 at n. 4, No. 01-1017 (1st Cir. Sept. 20, 2001.).

To the extent appellant attempts to make out a claim for religious discrimination based on a hostile work environment, she fails. *See Hernandez-Torres v. Intercontinental Trading, Inc.*, 158 F. 3d 42, 48 (1st Cir. 1998) (acknowledging claim for religious discrimination based on hostile work environment). In order to state such a claim, O'Connor must allege the harassment based on her religious beliefs was "severe or pervasive," *O'Rourke v. City of Providence*, 235 F.3d 713, 728 (1st Cir. 2001). She wholly fails to make such an allegation; and her charge of a single incident of religious harassment does not rise to the necessary level. "By its nature, a hostile work environment often means that there are a series of events which mount over time to create such a poisonous atmosphere as to violate the law. In the leading Supreme Court cases, the evidence of harassment covered a period of years." *Id.* at 727 (citing *Faragher v. City of Boca Raton*, 524 U.S. 775, 782 (1998); *Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 20-23 (1993); *Meritor Sav. Bank, FSB v. Vinson*,

477 U.S. 57, 59-60 (1986)). To the extent she claims she was "ostracized" by other employees, her claim fails because (once again) any reference to her religion was omitted during discussions among employees. Thus, she has failed to allege that the other employees even knew she was a fundamentalist Christian; lacking such knowledge, any harassment or ostracism could not have been motivated by her co-workers' animosity toward her religion.

Because O'Connor did not include her additional allegations of age and sex discrimination in her administrative charge, the court cannot consider any instances of age or sex discrimination in determining whether the alleged harassment was severe or pervasive; and to the extent O'Connor attempts to make distinct claims based on age or sex discrimination, the attempt fails. *See* 29 U.S.C. § 626(d); 42 U.S.C. § 2000e-5(f); *Lattimore v. Polaroid Corp.*, 99 F.3d 456, 464 (1st Cir. 1996) .

The appellee's motion for sanctions pursuant to Fed. R. App. P. 38 is denied.

Affirmed. 1st Cir. Loc. R. 27(c).

APPENDIX B — ORDER OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS DATED JUNE 22, 2000

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 00-10677-GAO

CAROLYN E. O'CONNOR

Plaintiff,

v.

NORTH SHORE INTERNATIONAL INSURANCE SERVICES, INC., et al.,

Defendants.

ORDER
June 22, 2000

O'TOOLE, D.J.

The defendant, North Shore International Insurance Services, Inc. (North Shore), moves to dismiss the plaintiff's *pro se* complaint. As grounds for this motion, North Shore argues the complaint fails to state any federal claim that provides this Court with subject matter jurisdiction. After reviewing the complaint, the Court agrees the complaint fails to state a federal claim and that diversity jurisdiction is unavailable. Thus, the complaint must be dismissed for want of jurisdiction under Fed. R. Civ. P. 12(b)(1).

Appendix B

North Shore's motion to dismiss is therefore GRANTED. Recognizing that *pro se* litigants may sometimes express their claims inartfully, *see Haines v. Kerner*, 404 U.S. 519 (1972), the plaintiff is given leave to file, within 35 days of the date of this Order, an amended complaint setting forth in necessary detail any claims arising under federal law that she means to assert, showing that this Court has jurisdiction of her claims. If no amended pleading is filed within the time permitted, the action will be dismissed.

June 22, 2000
DATE

s/ George A. O'Toole, Jr.
DISTRICT JUDGE

APPENDIX C — ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT DATED AND ENTERED DECEMBER 5, 2001

UNITED STATES COURT OF APPEALS
For the First Circuit

No. 01-1547

CAROLYN E. O'CONNOR,

Plaintiff, Appellant,

v.

NORTHSHORE INTERNATIONAL INSURANCE SERVICES, INC.,

Defendant, Appellee.

Before

Boudin, *Chief Judge*,
Torruella and Lipez, *Circuit Judges*.

ORDER OF COURT

Entered: December 5, 2001

Appellant's "Request for Appeal of Decision," which we treat as a petition for panel rehearing, is denied. The court's decision and reasoning in its judgment dated October 22, 2001 remains sound, and appellant offers no substantive arguments to the contrary.

Appendix C

By the Court:

Richard Cushing Donovan, Clerk

By: JULIE GREGG
Appeals Attorney

[cc: Ms's O'Connor and Harrington]